

Regular Session, 2010

SENATE BILL NO. 191

BY SENATOR B. GAUTREAUX

RETIREMENT SYSTEMS. Provides relative to compliance with applicable federal tax qualification requirements for Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and State Police Pension and Retirement System. (7/1/10)

AN ACT

To amend and reenact R.S. 11:701(introductory paragraph), 728(A)(4), 783(A)(3)(a), 792(C)(1) and (D), 1002(introductory paragraph), 1153(C)(1) and (D), 1326 and 1337(B), to enact R.S. 11:701(5)(e), 784.1(F) and (G), 1002(6)(c), 1140, 1141.2(C) and (D), 1336(F) and (G), and 1338(F), and to repeal R.S. 11:701(12)(d), 792(B)(3), (C)(2), and (F), 1153(B)(3), (C)(2), and (F), and 1337(A)(3), relative to the Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and State Police Pension and Retirement System; to provide relative to compliance with applicable federal tax qualification requirements; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:701(introductory paragraph), 728(A)(4), 783(A)(3)(a), 792(C)(1) and (D), 1002(introductory paragraph), 1153(C)(1) and (D), 1326 and 1337(B) are hereby amended and reenacted and R.S. 11:701(5)(e), 784.1(F) and (G), 1002(6)(c), 1140, 1141.2(C) and (D), 1336(F) and (G), and 1338(F) are hereby enacted to read as follows:

§701. Definitions

As used in this Chapter, the following words and phrases have the meanings ascribed to them in this Section unless a different meaning is plainly required by the context:

* * *

(5)(a)

* * *

(e) Notwithstanding any other provision of law to the contrary, "average compensation" shall not include any amount in excess of the limitation provided in R.S. 11:785.1.

* * *

§728. Prior service credit

A. Any member of the Teachers' Retirement System of Louisiana may receive credit for service as a teacher, as the term "teacher" is defined in R.S. 11:701, and/or for service in any agency in Louisiana, provided he meets the requirements set forth below, and provided the application for such purchase is received by the Teachers' Retirement System of Louisiana prior to the date of retirement or the beginning date of the Deferred Retirement Option Plan participation and the purchase is finalized before the retirement or Deferred Retirement Option Plan participation date:

(1)

* * *

(4) Payments to be made under the provisions of this Section shall be made in a lump sum. Effective January 1, 2002, payment for service credit under this Section shall be allowed by a trustee-to-trustee transfer of funds from a Code Section 403(b) annuity or a Code Section 457 plan to the system; ~~provided that no purchase of service credit under this Section shall be allowed by a trustee-to-trustee transfer of funds from a Code Section 403(b) annuity or a Code Section 457 plan to the pension after December 31, 2010.~~

* * *

§783. Selection of option for method of payment ~~after death of member~~

A.(1)

* * *

(3) Initial Lump-Sum Benefit. (a) If a member has not participated in the Deferred Retirement Option Plan provided by the provisions of this Chapter and has thirty years of creditable service, or is age fifty-five and has twenty-five years of creditable service, or is age sixty and has ten years of creditable service, and if the maximum benefit, Option 2, 2A, 3, 3A, 4, or 4A above is chosen, then **the member may further elect to receive** a reduced retirement allowance plus an initial benefit ~~shall be paid to the member~~. The accredited* **creditable** service referenced in this Paragraph shall not include unused accumulated sick leave and unused accumulated annual leave.

* * *

§784.1. Maximum benefits

* * *

F. The board of trustees shall make no actuarial adjustment under this Section by reason of the member's retirement after normal retirement age.

G. The board of trustees shall adopt rules for the administration of the limits provided in this Section and the limitations under Section 415 of the Internal Revenue Code, including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

* * *

§792. Direct rollover

* * *

C.(1) An "eligible retirement plan" shall mean any of the following:

(a) An individual retirement account described in Section 408(a) of the ~~United States~~ Internal Revenue Code.

(b) An individual retirement annuity described in Section 408(b) of the ~~United States~~ Internal Revenue Code.

(c) An annuity plan described in Section 403(a) of the ~~United States~~ Internal Revenue Code.

(d) A qualified trust as described in Section 401(a) of the ~~United States~~

Internal Revenue Code, provided that such trust accepts the member's eligible rollover distribution.

(e) An eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan.

(f) An annuity contract described in Section 403(b) of the Internal Revenue Code.

* * *

D. A "distributee" as provided for in this Section shall include:

(1) A member or former member.

(2) The member's or former member's surviving spouse, or the member's ~~spouse~~ or former member's **former** spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), ~~are distributees~~ with reference to an interest of the member or former spouse.

(3) The member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs (C)(1)(a) and (C)(1)(b) of this Section.

* * *

§1002. Definitions

As used in this Chapter, the following words and phrases shall have the meanings ascribed to them in this Section unless a different meaning is plainly required by the context:

* * *

(6)(a)

* * *

(c) Notwithstanding any other provision of law to the contrary, "average compensation" shall not include any amount in excess of the limitation provided in R.S. 11:1141.3.

* * *

§1140. Purchase of service credit; trustee-to-trustee transfer

Payment for service credit under this Part shall be allowed by a trustee-to-trustee transfer of funds from an annuity under Section 403(b) or a plan under Section 457 of the Internal Revenue Code to the system.

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§1141.2. Computation of retirement benefits

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C. The board of trustees shall make no actuarial adjustment under this Section by reason of the member's retirement after normal retirement age.

D. The board of trustees shall adopt rules for the administration of the limits provided in this Section and the limitations under Section 415 of the Internal Revenue Code including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

* * *

§1153. Direct rollover

* * *

C.(1) An "eligible retirement plan" shall mean any of the following:

(a) An individual retirement account described in Section 408(a) of the ~~United States~~ Internal Revenue Code.

(b) An individual retirement annuity described in Section 408(b) of the ~~United States~~ Internal Revenue Code.

(c) An annuity plan described in Section 403(a) of the ~~United States~~ Internal Revenue Code.

(d) A qualified trust as described in Section 401(a) of the ~~United States~~ Internal Revenue Code, provided that such trust accepts the member's eligible rollover distribution.

(e) An eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for

amounts transferred into such plan.

(f) An annuity contract described in Section 403(b) of the Internal Revenue Code.

* * *

D. A "distributee" as provided for in this Section shall include:

(1) A member or former member.

(2) The member's or former member's surviving spouse, or the member's spouse or former member's **former** spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), ~~are distributees~~ with reference to an interest of the member or former spouse.

(3) The member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs (C)(1)(a) and (C)(1)(b) of this Section.

* * *

§1326. Credit for previous service upon reentry into service

A. Any employee who has left the service and has withdrawn his accumulated contributions from the state police retirement fund may have his prior service credit reinstated provided he repays to the fund the full amount previously withdrawn from the fund, plus interest at the board approved actuarial valuation rate, compounded annually from date of withdrawal to date of repayment.

B. Payment for service credit under this Section shall be allowed by a trustee-to-trustee transfer of funds from an annuity under Section 403(b) or a plan under Section 457 of the Internal Revenue Code to the system.

* * *

§1336. Maximum benefits

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F. The board of trustees shall make no actuarial adjustment under this Section by reason of the member's retirement after normal retirement age.

G. The board of trustees shall adopt rules for the administration of the

limits provided in this Section and the limitations under Section 415 of the Internal Revenue Code, including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

§1337. Direct rollover of eligible rollover distributions

* * *

B. An eligible retirement plan is an individual retirement ~~account~~ annuity described in Section 408(b) of the Internal Revenue Code, a Section 403(b) annuity of the Internal Revenue Code, a Section 457 plan of the Internal Revenue Code, an individual retirement ~~annuity~~ account described in Section 408(a) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. The member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse. The member's or former member's non-spouse beneficiary is a distributee provided the specified distribution is to an individual retirement account or individual retirement annuity. A direct rollover is a payment by this system's pension plan to the eligible retirement plan specified by the distributee.

§1338. Internal Revenue Code qualification requirements

* * *

F.(1) Unless otherwise provided in this Chapter, the accrued benefit of each "Section 401(a)(17) employee" as that term is defined in Paragraph (2) of this Subsection, shall be the greater of the following:

(a) The employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals.

(b) The sum of:

(i) The employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of 26 CFR 1.401(a)-4 through 1.401(a)-13; and

(ii) The employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

(2) A "Section 401(a)(17) employee" shall mean any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded one hundred fifty thousand dollars.

(3) If an employee is not a "Section 401(a)(17) employee", his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of Section 401(a)(17) of the Internal Revenue Code as amended and revised.

Section 2. R.S. 11:701(12)(d), 792(B)(3), (C)(2), and (F), 1153 (B)(3), (C)(2), and (F), and 1337(A)(3) are hereby repealed.

Section 3. This Act shall become effective on July 1, 2010; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2010, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Lauren Bailey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Broussard-Johnson.

DIGEST

B. Gautreaux (SB 191)

Present law provides for compliance by the Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and State Police Pension and Retirement System with applicable federal tax qualification requirements of the Internal Revenue Code.

Proposed law retains present law and continues compliance with applicable federal tax qualification requirements of the Internal Revenue Code by the three systems incorporating

changes in federal law and regulations as required.

Effective July 1, 2010.

(Amends R.S. 11:701(intro. para.), 728(A)(4), 783(A)(3)(a), 792(C)(1) and (D), 1002(intro. para.), 1153(C)(1) and (D), 1326 and 1337(B); adds R.S. 11:701(5)(e), 784.1(F) and (G), 1002(6)(c), 1140, 1141.2(C) and (D), 1336(F) and (G), and 1338(F); repeals R.S. 11:701(12)(d), 792(B)(3), (C)(2), and (F), 1153(B)(3), (C)(2), and (F), and 1337(A)(3))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Technical amendment to clarify language.